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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/780,943	02/09/2001	Timothy A.M. Chuter	ENDOV-56584(E0025)	1704

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EXAMINER

ISABELLA, DAVID J

ART UNIT

PAPER NUMBER

3738

DATE MAILED: 12/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/780,943

Applicant(s)

CHUTER, TIMOTHY A.M. *CH*

Examiner

DAVID J ISABELLA

Art Unit

3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) 8, 15, 17-26 and 28-42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-14, 16 and 27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4,5. 6) ☐ Other: _____

Election/Restrictions

Applicant's election without traverse of Group 1 and Figures 1,3, and 7 in Paper No. 8 is acknowledged.

Claims 8,15,17,18,19,20,21,22,23,24,25,26,28-35,36-42 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and speices, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 8. Please note claims 15,17-35 are not depicted in elected figure 1.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-7,9-14,16,27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is inaccurate and therefore indefinite. The claim defines at least two extension components wherein each of which sealingly engage with one of the four apertures. It appears from the disclosure that one extension component is design to sealingly engage with a corresponding aperture.

Claim 2, there is no structural nexus between the catheter and the main component.

Claim 4, there is no structure to perform the function as claimed.

Claim 5 is directed to a method for using the system and fails to set forth structure to further define the structure of claim 1.

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Claim 6 is directed to in vivo structure and if interpreted as positively claiming the in vivo structure would be a 35 USC 101 non-statutory subject matter.

Claim 7 failed to provide basis for the superior end.

Claim 11 lacks structure that defines the support structure.

Claim 14, "the inside" does not have antecedent support.

Claim 16, it is not clear if the "tubular portion" and the extension are one and the same.

Claim 27, there is no nexus between the elements of the system.

Claim Rejections - 35 USC § 102

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-6 and 27 are rejected under 35 U.S.C. 102(a) as being anticipated by Wisselink (5984955).

Wisselink discloses a system for grafting branched vessels including a main component having at least four apertures and at least two extensions configured to sealingly engage with a corresponding aperture.

Claims 2,3,4,5,6 and 27, see column 11, lines 10+.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7,9,10,11,12,13,14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wisselink as applied to claim 1 above, and further in view of Piplani, et al.


Wisselink uses generically defined anchoring devices 18 and 20. Piplani, et al teaches that the anchoring device as claimed is known in the art and does not form the basis of the invention. To use the anchoring device as shown in Piplani, et al as a specific device for the generically defined devices of Wisselink would have been obvious to one with ordinary skilled in the art based upon surgical considerations.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Isabella whose telephone number is 703.308.3060. The examiner can normally be reached on Monday-Friday, 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on Monday-Friday.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.0858.

dji
December 20, 2002


David J. Isabella
Primary Examiner